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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,198	10/24/2005	Johannes Kostner	AT 020057	7066

7590 02/25/2008  
Corporate Patent Counsel  
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EXAMINER
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ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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02/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,198	<b>Applicant(s)</b> KOSTNER ET AL.	
	<b>Examiner</b> GHASSEM ALIE	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet apart from any other text.
3. The disclosure is objected to because of the following informalities. The specification does not contain section headings. It should be noted that each section of the specification should have section headings. Each heading should appear in upper case, without underlining or bold type. See arrangement and contain of the specification in MPEP 601 (I).

### ***Claim Objections***

4. Claim 7 is objected to because of the following informalities: "a spring of a U-shaped configuration that is connected to the main part in the region of its cross-member and that co-operating with at least one positioning extension connected to the main part" should be --a spring of a U-shaped configuration has a cross-member connected to the main part and two sides co-operating with at least one positioning extension connected to the main part--. In

claim 7, “the head part is pivotable the spring” should be --the head part is pivotable by the spring--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, “a spring of a U-shaped configuration that is connected to the main part in the region of its cross-member and that co-operating with at least one positioning extension connected to the main part” is confusing. It should be noted that the U-shaped spring is connected to the head part and the main part. The cross-member of the U-shaped spring is connected to the head part, instead of the main part.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 7, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Althaus et al. (4,970,784), hereinafter Althaus. Regarding claim 7, Althaus teaches a personal care apparatus including a main part 2 and a head part 1, the main part being adapted to be held in one hand having a region adjacent the head part, wherein the head part

is connected to the main part in the region of the main part that is adjacent the head part and is pivotable relative to the main part about an axis of pivot. It should be noted that the head part is pivotable relative to the main part 2 along the axis parallel to pivot pins 23. Althaus also teaches a personal care tool 8, 8' provided in the head part 1. Althaus also teaches a spring 20 of a U-shaped configuration 21 that is connected to the main part 1 in the region of its cross-member and that co-operates with at least one positioning extension 6 connected to the head part in the region of each of its two sides. It should be noted that the pins are part of the U-shaped configuration 21 of the spring 20. Althaus also teaches that the spring acts between the head part and the main part, and the head part is pivotable by the spring in synchronization with varying displacing forces that act on the head part in the course of a personal care process. Althaus also teaches the head part is adapted for positioning by the spring in a defined rest position relative to the main part when there are displacing forces present. See Figs. 1- 6 in Althaus.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 7, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable Iderosa (5,038,472). Regarding claim 7, Iderosa teaches a personal care apparatus including a main part 12 and a head part 18, the main part being adapted to be held in one hand having a region adjacent the head part, wherein the head part is connected to the

main part in the region of the main part that is adjacent the head part and is pivotable relative to the main part about an axis of pivot. It should be noted that the head part is pivotable relative to the main part 12 along the axis 68. Iderosa also teaches a personal care tool 40 provided in the head part 18. Iderosa also teaches a spring 20, 22 that is connected to the head part 18 in the region of its cross-member and that co-operates with at least one positioning extension 70 connected to the main part in the region of each of its two sides. It should be noted that the spring 20, 22 on its cross-members 34 is connected to the head 18. Iderosa also teaches that the spring acts between the head part and the main part, and the head part is pivotable by the spring in synchronization with varying displacing forces that act on the head part in the course of a personal care process. Iderosa also teaches the head part is adapted for positioning by the spring in a defined rest position relative to the main part when there are displacing forces present. See Figs. 2-3 in Iderosa. Iderosa does not explicitly teach that the spring 20, 22 has a U-shaped configuration. However, the shape of the spring is not critical since the spring whether is U-shaped or any other shape functions the same. It would have been an obvious matter of design choice to make the spring with a U-shaped configuration or any shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

***Allowable Subject Matter***

11. Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

12. Applicant's arguments with respect to claim 7 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 15, 2008

/Ghassem Alie/  
Primary Examiner, Art Unit 3724